

Remarks

The Examiner divided the claims of the present application into the following groups:

Group I (Claims 1, 2, 5, 7-9) drawn to the δ V1-1 peptide and derivatives (SEQ ID NO:4 and 34-64).

Group II (Claims 1, 3, 7-9) drawn to the δ V1-2 peptide and derivatives (SEQ ID NO:5 and 65-71).

Group III (Claims 1, 4, 6, 7-9) drawn to the $\psi\delta$ RACK peptide and derivatives (SEQ ID NO:5 [sic, 6] and 11-23).

Group IV (Claims 1, 7-9) drawn to the δ V1-5 peptide (SEQ ID NO:7).

Group V (Claims 10-12) drawn to the δ V1-1 fusion peptides.

Group VI (Claims 10-12) drawn to the δ V1-2 fusion peptide.

Group VII (Claims 10-12) drawn to the $\psi\delta$ RACK fusion peptide.

Group VIII (Claims 10-12) drawn to the δ V1-5 fusion peptide.

Group IX (Claims 13-33, 50-58) drawn to a method of reducing ischemic injury.

Group X (Claims 34-39) drawn to a method of enhancing ischemic injury.

Group XI (Claims 40-45) drawn to a method of identifying a compound to induce protection of a cell from ischemic damage.

Group XII (Claims 46-49) drawn to a method of identifying a compound to enhance damage to a cell from ischemic damage.

The Applicants hereby provisionally elect the claims of Group I (claims 1, 2, 5, 7-9), with traverse, for examination in the present application. In accord with 37 C.F.R. § 1.143 Applicants have made a provisional election, and amended the claims consistent with this election, in the event the request for reconsideration of the restriction requirement is denied.

Reconsideration is requested of the restriction of the Group I claims from the claims of Groups II, III, and IV. According to MPEP 803, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct and independent inventions.” See MPEP 803 (emphasis added). Here, the peptide sequences identified in Groups I, II, III, and IV are classified in the same class (class 530) and subclass (300). Thus, searching of SEQ ID NOS:4, 5, 6, and 7 is closely related and involves overlapping searches. Moreover, the peptide sequences identified as SEQ ID Nos: 4, 5, and 6 are short peptides of less than 10 residues, further easing the search. Accordingly, the Applicants submit that examination of Groups I, II, III, and IV would not impose a serious burden on the Examiner and Applicants respectfully urge reconsideration and withdrawal of the restriction requirement with regard to Groups I-IV.

No fees are believed due with this communication. However, the Commissioner is hereby authorized and requested to charge any deficiency in fees herein to Deposit Account No. 50-2207.

Respectfully submitted,

Date: August 19, 2003

Judy M. Mohr
Judy M. Mohr
Registration No. 38,563

Correspondence Address:

Customer No. 22918
Perkins Coie LLP
P.O. Box 2168
Menlo Park, California 94026
(650) 838-4300